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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/805,068  | 03/19/2004  | Thomas Wachala       | 11836.122103        | 7925             |
| 23469   | 7590        | 06/14/2005           | EXAMINER            |                  |
| JAECKLE FLEISCHMANN & MUGEL, LLP<br>190 Linden Oaks<br>ROCHESTER, NY 14625-2812 |             |                      | LARKIN, DANIEL SEAN |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2856                |                  |

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/805,068

Applicant(s)

WACHALA ET AL.

Examiner

Daniel S. Larkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7, 8 and 13 is/are rejected.
- 7) ☒ Claim(s) 3, 6, 9-12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 25 February 2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Reference numeral -- 19 --, as shown in Figure 1, does not appear within the written disclosure.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The disclosure is objected to because of the following informalities:

Page 7, line 13: The term "actuator" should be plural; and a -- comma -- should be inserted prior to and after the term "respectively".

Page 7, line 16: Both occurrences of the term "plate" should be replaced with the term -- jaw --.

Page 7, line 19: Reference numeral -- 24 -- should be inserted after the term "side"; and reference numeral "24" should be replaced with reference numeral -- 23 --.

Page 7, line 20: Reference numeral -- 25 -- should be inserted after the term "side"; and reference numeral "25" should be replaced with reference numeral -- 23 --.

Appropriate correction is required.

***Claim Objections***

4. Claims 1-16 are objected to because of the following informalities:

Re claim 1, claim line 6: The term "to" should be corrected to read -- for --; or the term "releasing" should be corrected to read -- release --.

Re claim 10, claim line 1: The phrase "said device" lacks antecedent basis.

Re claim 10, claim line 2: The article "the" should be deleted.

Re claim 12, claim line 3: The phrase "the clamping mechanism" lacks antecedent basis.

Re claim 14, claim line 9: The term "clamps" should be corrected to read -- jaws --. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 5, 7, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,813,268 (Helvey).

With respect to the limitations of claim 1, the reference to Helvey discloses a leakage detection apparatus, comprising: a pair of clamping jaws (92, 40); a pressure supply (54); a pair of actuators (48) for initiating a clamping force; and an actuator (48) to release the clamping force. With respect to the preamble, the limitations recited therein are not given patentable weight because these limitations do not appear within the body of the claim. The claim as written now can be directed to any structure having the listed items, and is not limited to an open package test fixture for testing the seal strength of flexible packages.

With respect to the limitations of claim 2, the clamping jaws comprise an upper jaw (92) and a lower jaw (40).

With respect to the limitation of claim 4, the reference discloses that the pressure supply (54) is located between the upper jaw (92) and the lower jaw (40).

With respect to the limitations of claim 5, the upper jaw and the lower jaw each have a mating surface.

With respect to the limitation of claim 7, the reference discloses a fixture plate body having a fixture plate base/support platform (44).

With respect to the limitations of claim 8, the reference appears to show that the upper and lower jaws are located in the middle of the base/platform (44) thus creating a first and second side of the base/platform.

With respect to the limitation of claim 13, the reference discloses that the pressure system is a negative pressure system, however, the examiner argues that adding tracer gas to the inner chamber of the wheel and simply pumping air into the wheel will provide a functionally equivalent leak test as drawing a vacuum on the inner chamber (80).

***Allowable Subject Matter***

7. The following is a statement of reasons for the indication of allowable subject matter:

Prior art was not relied upon to reject claims 3, 6, 9-12, and 14-16 because the prior art fails to teach and/or make obvious the following:

Claim 3: Providing a leak proof crushable material on the face region of the upper clamping jaw and the lower clamping jaw in combination with all of the limitations of the base claim and the intermediate claim.

Claim 6: Accommodating a pressure supply with the upper clamping jaw mating surface and the lower clamping jaw mating surface in combination with all of the limitations of the base claim and the intermediate claims.

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Claims 9 and 10: Providing first and second anti-tie down safety actuators in combination with all of the limitations of the base claim and the intermediate claims.

Claim 11: Providing a precision nozzle orientation guide to fix the pressure supply to a test fixture in combination with all of the remaining limitations of the base claim.

Claim 12: Providing a barrier for preventing fingers from being caught in the clamping jaws in combination with all of the remaining limitations of the base claim.

Claims 14-16: Providing a test fixture having crushable material attached to a pair of clamping jaws; a precision nozzle orientation guide; and a barrier to prevent finger insertion while actuating a clamping force in combination with all of the remaining limitations of the claim.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art to US 3,027,753 (Harder, Jr.) discloses a leak detection device comprising a top frame (33) and a bottom frame (32) which are hinged together to form a chamber for holding a package (10). A pressure source located between the two frames (33, 32) is used to evacuate the chamber.

The prior art to US 6,354,142 (Nothhelfer et al.) discloses a process for testing the tightness of packages comprising a top frame (4) and a bottom frame (5) which are hinged together to form a chamber for holding a package (1). The frames (4, 5) are

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affixed with foil (2, 3) that can mold to the package (1) under test. Additionally, a pressure source located between the two frames (4, 5) is used to evacuate the chamber.

The prior art to US 5,850,036 (Giromini et al.) discloses an apparatus for leak testing vehicle wheels comprising a structure similar to that disclosed in Helvey (US 4,813,268).

The prior art to US 3,813,923 (Pendleton) discloses an adaptive fixture for leak testing of containers, comprising a top frame (12) and a bottom frame (14) that are opened by a hydraulic cylinder (34) to house a container.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Larkin whose telephone number is 571-272-2198. The examiner can normally be reached on 8:00 AM - 5:00 PM Mon-Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Larkin  
AU 2856  
13 June 2005



**DANIEL S. LARKIN**  
**PRIMARY EXAMINER**